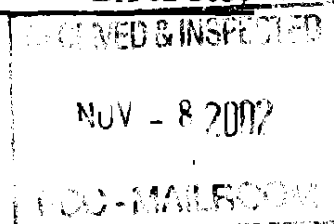


Federal Communications Commission

DA 02-3050

Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of)	
)	
Request for Review by)	
)	
Windharn Public Library)	File No. SLD-333067
Windharn, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21 ✓
National Exchange Carrier Associations, Inc.)	

ORDER

Adopted: November 6, 2002

Released: November 7, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a request filed by Windham Public Library (Windham) Windham, New York, seeking review of a decision of the Universal Service Administrative Company (Administrator).¹ Windham requests review of the Administrator's determination that Windham filed its application outside the filing window for Funding Year 2002.² For the reasons set forth below, we deny Windham's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Schools and Libraries Division (SLD) of the Administrator a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks

¹ Letter from Donna Pidgeon, Windham Public Library, to Federal Communications Commission, filed June 10, 2002 (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See Request for Review. Previously, this funding period would be referred to as Funding Year 5. Funding periods are now described by the year in which the funding period starts. Thus the funding period which began on July 1, 2002 and ends on June 30, 2003, previously described as Funding Year 5, and is now called Funding Year 2002. The funding period which begins on July 1, 2003 and ends on June 30, 2004, previously described as Funding Year 6, and is now called Funding Year 2003, and so on.

³ 47 C.F.R. §§ 54.501-54.503.

discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ The Commission's rules require that the applicant file a completed FCC Form 471, by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.⁶ The last day of the filing window for Funding Year 2002 was January 17, 2002.⁷

3. Windham claims that it filed its FCC Form 470 on January 11, 2002.⁸ SLD records indicate that it was posted on the SLD website on February 13, 2002.⁹ As Windham noted, the Commission's competitive bidding rules require that applicants allow for 28 days before submitting their FCC Form 471. Windham maintains that because of this requirement it submitted its FCC Form 471 on March 16, 2002.¹⁰ Therefore, Windham missed the January 17, 2002 deadline for filing FCC Forms 471 by more than six weeks.

4. Windham explains that it could have sent in its FCC Form 471 earlier, but did not think it would be accepted.¹¹ Windham is correct in that an FCC Form 471 filed before the competitive bidding period expires is not accepted by SLD. The point of the waiting period is to allow for competitive bids. To ensure that this happens, Windham is not supposed to sign any contracts before that period expires. Therefore, Windham's FCC Form 470 needed to be posted at least 28 days before the filing window closed for the FCC Form 471. Because Windham waited until January to file its FCC Form 470, it could not have properly filed its FCC Form 471 within the filing window and still comply with our competitive bidding requirement.

5. The instructions for the FCC Form 470 and the SLD website noted that the FCC Form 470 must be filed with enough time to allow for the 28-day competitive bidding period to run before filing the FCC Form 471.¹² Additional information on the website clearly indicated

⁴ 47 C.F.R. § 54.504(b)

⁵ 47 C.F.R. § 54.504(c)

⁶ 47 C.F.R. §§ 54.504(c), 54.507(g).

⁷ SLD website, Urgent Reminder of Filing Requirements for Year 5 (January 10, 2002) <<http://www.sl.universalservice.org/whatsnew/012002.asp#011002b>>.

⁸ Request for Review.

⁹ FCC Form 470, Windham Public Library, posted February 13, 2002

¹⁰ FCC Form 471, Windham Public Library, filed March 16, 2002 (envelope containing the entire application with postmark date of March 16, 2002). In Windham's Request for Review, Windham states that it mailed the material on March 13, 2002. Because this difference of three days does not affect our analysis, we do not need to address it in this Order.

¹¹ Request for Review

¹² See Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 at 4 (September 1999) (FCC Form 470 Instructions); SLD website, **Tip 2: File Your Form 470 Anytime During the Program Year**, <http://www.sl.universalservice.org/reference/470Tips_Yr4.asp#1>. This website advice did not change in any substantive way from Funding Year 2001

that FCC Form 471 must be filed within a certain filing window.¹³ Windham has failed to support its contention that it followed the proper directions for filing the material within the filing window.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Windham Public Library, Windham, New York, on June 12, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹³ SLD website, Urgent Reminder of Filing Requirements for Year 5 (January 10, 2002)
<<http://www.sl.universalservice.org/whatsnew/012001.asp#011002b>>.